

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
RICK SOHNS,

Appellant,

vs.

SPOKANE COUNTY AIR POLLUTION  
CONTROL AUTHORITY,

Respondent.

PCHB No. 537

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being an appeal of a notice of violation in the amount of \$25.00 for an alleged open fire; having come on regularly for hearing before the Pollution Control Hearings Board on the 9th day of May, 1974, at Spokane, Washington; and appellant, Rick Sohns, appearing pro se and respondent, Spokane County Air Pollution Control Authority, appearing through its director, Fred A. Shiosaki; and George W. Wilkins, hearing examiner, presiding for and on behalf of the Board per Stipulation of the parties; and the Board having considered the transcript, records and files herein and having entered on the 11th day of

1 June, 1974, its proposed Findings of Fact, Conclusions of Law and Order,  
2 and the Board having served said proposed Findings, Conclusions and  
3 Order upon all parties herein by certified mail, return receipt requested  
4 and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,  
6 Conclusions and Order; and the Board being fully advised in the premises;  
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
9 Findings of Fact, Conclusions of Law and Order, dated the 11th day of  
10 June, 1974, and incorporated by this reference herein and attached hereto  
11 as Exhibit A, are adopted and hereby entered as the Board's Final  
12 Findings of Fact, Conclusions of Law and Order herein.

13 DONE at Lacey, Washington, this 6th day of August, 1974,

14 POLLUTION CONTROL HEARINGS BOARD

15  
16 Walt Woodward  
17 WALT WOODWARD, Chairman

18 W. A. Gissberg  
19 W. A. GISSBERG, Member

20  
21  
22  
23  
24  
25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER


CERTIFICATION OF MAILING

I, LaRene C. Barlin, certify that I mailed copies of the foregoing document on the 7<sup>th</sup> day of August, 1974, to each of the following parties:

Mr. Fred Shiosaki, Director  
Spokane County Air Pollution  
Control Authority  
N. 811 Jefferson  
Spokane, Washington 99201

Mr. Rick Sohns  
N. 2922 Hutchinson  
Millwood, Washington 99206

the foregoing being the last known post office addresses of the above-named parties. I further certify that proper postage had been affixed to the envelopes deposited in the U.S. mail.

  
LARENE C. BARLIN  
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

1	IN THE MATTER OF	)	
2	RICK SOHNS,	)	
3	Appellant,	)	PCHB No. 537
4	vs.	)	FINDINGS OF FACT
5	SPOKANE COUNTY AIR POLLUTION	)	CONCLUSIONS OF LAW
6	CONTROL AUTHORITY,	)	AND ORDER
7	Respondent.	)	

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8 This matter, the appeal of a Notice of Violation issued by  
9 the Spokane County Air Pollution Control Authority to Rick Sohns came  
10 before the Pollution Control Hearings Board (Hearing Examiner  
11 George W. Wilkins presiding for and on behalf of the Board per  
12 Stipulation of the parties) at a hearing in the Council Chambers in  
13 the Spokane City Hall, Spokane, Washington, on May 9, 1974. The  
14 appellant, Rick Sohns, and respondent, Spokane County Air Pollution  
15 Control Authority, by its director, Fred A. Shiosaki, both appeared  
16 pro se. The appellant appeals both the cited violation and the civil  
17 penalty assessed as stated in the said Notice of Violation which is  
18 a part of the record herein. David Storey, Spokane court reporter,

EXHIBIT A

1 | recorded the proceedings.

2 | Witnesses (appellant Sohns and Douglas K. Pottratz, investigating  
3 | employee of the respondent agency) were sworn and testified. No  
4 | exhibits were received but the provisions of the Notice of Violation  
5 | are part of the record and recited in testimony taken.

6 | From the testimony heard and the record as made, the Pollution  
7 | Control Hearings Board makes the following

8 | FINDINGS OF FACT

9 | I.

10 | As of February 13, 1974, appellant was the owner of a residence  
11 | house and lot located at North 2922 Hutchinson, Millwood, Spokane  
12 | County, Washington, in a developed residential area, where appellant  
13 | and another young man, who shared costs, resided.

14 | II.

15 | During the day of February 13, 1974, appellant had placed some  
16 | branches and pieces of cardboard and sawdust (gathered in cleaning  
17 | up his yard) on an old discarded door on the ground in his backyard.  
18 | Shortly thereafter on the same day the roommate, at appellant's  
19 | request (but appellant being absent) cleaned out the ashes from the  
20 | residence fireplace, and dumped them on the pile of debris on the  
21 | mentioned door in the yard of the residence property. The ashes  
22 | were apparently hot and a fire started smoldering with considerable  
23 | smoke rising therefrom. Appellant, upon returning to his home  
24 | (early evening of the same day) noted the smoke, and, with a rake,  
25 | extinguished the fire with no further smoke arising therefrom. The  
26 | area of the smoldering fire was approximately four by four feet.

27 | FINDINGS OF FACT,

CONCLUSIONS OF LAW

AND ORDER

1 III.

2 On February 13, 1974, during appellant's absence, and after  
3 hot ashes had been dumped on the aforementioned debris, an employee  
4 of the respondent agency, on a telephone complaint (source not  
5 disclosed) visited the premises of appellant and saw the smoke from  
6 the smoldering fire. He inquired about this of appellant's roommate  
7 who disclaimed any responsibility. The inspector left the premises  
8 with the fire still smoldering and undisturbed. On the following day,  
9 February 14, 1974, the respondent agency issued its Notice of Violation  
10 against appellant charging violation of Article VI, Section 6.01  
11 of the Spokane County Air Pollution Control Authority Regulation I by:

12 "Permitting and maintaining an open fire"  
13 in violation of Section 6.01 of Regulation I  
14 of the Spokane County Air Pollution Control  
15 Authority "on or about February 13, 1974  
16 (6:00 p.m.)" and, for "allowing and  
maintaining an open ifire" at the appellant's  
residence site, and assessed a \$25.00 civil  
penalty.

17 Appellant does not contest the fact that permitting or maintaining  
18 an open fire on his premises is a violation of the above-cited  
19 regulation.

20 IV.

21 While appellant contends it was his intention that the pile of  
22 debris and sawdust would be burned in the spring of 1974, the appellant,  
23 under all of the circumstances as disclosed by the record, "permitted",  
24 at least, an open fire to occur on his premises as charged by the Notice  
25 of Violation from which he has appealed by his Notice of Appeal herein.

26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

1 V.

2 Any Conclusion of Law hereinafter recited which should be  
3 deemed a Finding of Fact is hereby adopted as such.

4 From these Findings, the Pollution Control Hearings Board makes  
5 the following

6 CONCLUSIONS OF LAW

7 I.

8 Appellant's Notice of Appeal was timely filed and the Pollution  
9 Control Hearings Board has jurisdiction of this matter.

10 II.

11 Appellant violated Article VI, Section 6.01 of Regulation I of  
12 the Spokane County Air Pollution Control Authority by permitting an  
13 open fire to smolder and burn on the rear of his residential lot in  
14 Millwood, Spokane County, Washington, on February 13, 1974, resulting  
15 in pollution of the air in the area of said site, inconsistent with  
16 the intent and purpose of RCW 70.94.

17 III.

18 The civil penalty of \$25.00, imposed by the respondent, is  
19 appropriate and proper as a reasonable enforcement of the Spokane  
20 County Air Pollution Control Authority regulations and provisions of  
21 the Washington Clean Air Act per RCW 40.94.

22 IV.

23 Any Finding of Fact which should be deemed a Conclusion of Law  
24 is adopted as such.

25 Based on the foregoing Findings of Fact and Conclusions of  
26 Law and review of the entire record herein, the Pollution Control Hearings  
27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

1 Board hereby enters the following

2 ORDER

3 The charge of violation of Article VI, Section 6.01 of Regulation I  
4 of the Spokane County Air Pollution Control Authority issued under  
5 date of February 14, 1974 to the appellant, Rick Sohns, and the  
6 assessment of a civil penalty of \$25.00 for said violation, is hereby  
7 affirmed and sustained and the respondent is hereby directed to proceed  
8 according to the law and procedure established for collection of  
9 such penalty.

10 DONE at Lacey, Washington, this 11<sup>th</sup> day of June, 1974.

11 POLLUTION CONTROL HEARINGS BOARD

12  
13 Walt Woodward  
14 WALT WOODWARD, Chairman

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16 W. A. Gissberg  
17 W. A. GISSBERG, Member

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26 FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER